bition, it will be impossible for the Government to achieve that goal. The attempt to enforce prohibition when people are not prepared for it, will result only in the wide-spread prevalence of malpractices and the replacement of licit liquor by illicit liquor.

The question that a sum of Rs. 7,32,928 under Demand V Excise Department be granted was put to vote and carried.

The grant was made.

DEMAND VI—ADMINISTRATION OF JUSTICE.

Mr. Kayalam Parameswaran Pillai (*Additional Head Sirkar Vakil*): Sir, I rise to move for a grant not exceeding Rs. 10,94,153, under Demand VI—Administration of Justice.

Mr. C. N. Thuppan Nambooripad (*Jenmies*) : സർ, സിവിൽകോടതിയെ സംബന്ധിച്ച് ചില പ്രത്യേകസംഗതികൾ ഗവണ്മെൻറിന്റെ ദൃഷ്ടിയിൽ കൊണ്ടുവരുന്നതിനാണ് ഞാൻ ഉദ്യമിക്കുന്നത്. ജന്മികുടിയാൻ റഗുലേഷൻ പാസ്സായതിനു ശേഷം ജന്മിമാർക്കു കിട്ടേണ്ട ജന്മിഭോഗക്കുടിശ്ശികക്കു കേസുകൊടുക്കുമ്പോൾ നിരക്കുവില കണക്കാക്കി കൊടുക്കണമെന്നും, ജന്മികുടിയാൻ റഗുലേഷൻ പാസ്സാകുന്നതിനു മുമ്പുള്ള ജന്മിക്കരക്കുടിശ്ശികക്കു റഗുലേഷൻ പാസ്സാകുന്നതിനുമുമ്പുള്ള വ്യവസ്ഥ അനുസരിച്ച് കേസുകൊടുക്കണമെന്നാണ് വ്യവസ്ഥ. എന്നാൽ ജന്മികുടിയാൻ റഗുലേഷൻ പാസാകുന്നതിനു മുമ്പുള്ള കുടിശ്ശികകൾക്കായി കൊടുക്കുന്ന കേസുകളിന്മേൽ ജഡ്ജിമാരുടെ വിധി ജന്മികുടിയാൻ റഗുലേഷനിൽ വ്യവസ്ഥചെയ്തിട്ടുള്ള കുറഞ്ഞ നിരക്കനുസരിച്ച് അതായത് കമ്മറി നിശ്ചയിച്ചിട്ടുള്ള ഏറ്റവും കുറഞ്ഞ നിരക്കനുസരിച്ച് കൊടുക്കണമെന്നാണ്. ഇങ്ങനെവേണം വിധികൽപ്പിക്കാനെന്ന് ഒരു നിയമത്തിലും പറഞ്ഞിട്ടില്ല. അതുപോലെതന്നെ സാധനങ്ങളുടെ വിലയെ സംബന്ധിച്ചും റഗുലേഷൻ പാസായതിനു ശേഷമുള്ള നിരക്കാണ് റഗുലേഷൻ പാസാകുന്നതിനുമുമ്പുള്ള കുടിശ്ശികക്കായി കണക്കാക്കുന്നത്. ജന്മികുടിയാൻ ബില്ലുതന്നെ ജന്മിമാർക്കു വളരെ കഷ്ടത്തെ ഉണ്ടാക്കുന്നതാണ്. അതിലും വിശേഷിച്ച് ഇപ്രകാരമുള്ള വിധികൾ ജന്മിമാരെ ക്രമത്തിലധികം സങ്കടപ്പെടുത്തുന്നുണ്ട്. ഈ വിഷയത്തിൽ സിവിൽകോടതി പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതായിട്ടുണ്ട്. അവരുടെ യുക്തംപോലെ വിധി കൽപ്പിക്കുന്നതിനു നിയമത്തിന്റെ ആവശ്യമൊന്നുമില്ലല്ലോ. അതിനാൽ ഏതു കേസും വിധിക്കുന്നത് നിയമമനുസരിച്ചുതന്നെവേണം.

ഇനി എനിക്കു പറയാനുള്ള മറ്റൊരുകാര്യം ജുണരഞ്ജകബോർഡിനെപ്പറ്റിയാണ്, ജന്മിക്കരം ജുണനിവാരണബോർഡിൽനിന്നും

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[Mr. C. N. Thuppan Nambooripad]

ഒഴിവാക്കിയിട്ടുണ്ട്. എന്നാൽ ഒരു ജന്മിക്കരക്കടക്കാരൻ ഗ്രാണരഞ്ജനത്തിനായി ബോർഡിൽ അപേക്ഷകൊടുക്കുമ്പോൾ അയാൾ ആക്കെല്ലാം പണംകൊടുക്കുവാനുണ്ടോ അവക്കെല്ലാം നോട്ടീസ് കൊടുത്തു വരുത്തി ഇതു ജന്മിക്കരം കടമാണ് അതുകൊണ്ട് ബോർഡിനു ഈ കേസ് എടുക്കാൻ അധിക്കാരമില്ലെന്ന് തക്കിച്ചു് ആ അപേക്ഷ തള്ളിക്കേണ്ടിയിരിക്കുന്നു. ഒരു ജന്മിക്കു് അഞ്ചും ആറും താലൂക്കുകളിൽ വസ്തുക്കളുണ്ടായിരുന്നാൽ രണ്ടോ മൂന്നോ ബോർഡുകളിൽ ഈ തരത്തിലുള്ള തക്കനോട്ടീസുകൾ കൊടുത്തു് തക്കങ്ങൾ പുറപ്പെടുവിക്കേണ്ടിവരും. ഇതു് യഥാർത്ഥത്തിൽ ജന്മിമാക്കു് ഏറ്റവും വലിയ ബുദ്ധിമുട്ടിനെ കൊടുക്കുന്നുണ്ടു്. അതുകൊണ്ടു് ഗ്രാണരഞ്ജനത്തിനായി അപേക്ഷകൊടുക്കുമ്പോൾ അപേക്ഷകനോടു് ഒരു സ്റ്റേറുമെൻറുകൂടി വേണമെന്നാവശ്യപ്പെടുകയും ആ സ്റ്റേറുമെൻറിൽ ജന്മിക്കരക്കുടിശ്ശികക്കൂടി ഉൾപ്പെടുത്തിയിരുന്നാൽ ആ അപേക്ഷതന്നെ സ്വീകരിക്കാതെ തള്ളുകയും ചെയ്യാൻ ബോർഡിലെ ആഫീസർമാക്കു വേണ്ട നിഷ്കർഷകൾ കൊടുക്കണം. ഈ രണ്ടു സംഗതികളിൽ ഗവണ്മെൻറു പ്രത്യേകം ശ്രദ്ധിക്കണമെന്നു് അഭ്യർത്ഥിച്ചുകൊണ്ടു വിരമിച്ചുകൊള്ളുന്നു.

Mr. G. Narayana Aiyar: In supporting the Demand I would bring to the notice of the Government one grievance. In the recruitment of Munsiffs, it is well known that preference is being given to Vakils practising in the High Court; and the Vakils practising in the mofussil courts are being completely ignored. It has been admitted that there are very competent men, eligible for appointment as Munsiffs, in the mofussil courts also. As a matter of fact, in British India, recruitment to the judiciary is being made from the Vakils practising in the mofussil also. In fact, they are better conversant with the conduct of original suits than the Vakils practising before the High Court; and it is original suits that the Munsiffs have to dispose of. I hope that, at least in future, the claims of the Vakils practising in the mofussil will be considered in the matter of recruitment as Munsiffs.

Mr. R. V. Thomas: I oppose the Demand. I entirely agree with what Mr. Narayana Aiyar has stated. There is also another point which I would like to raise, namely, the present inequality in the matter of communal representation in the judiciary. This inequality is very patent. Out of about 40 Munsiffs, there is only one Syrian Catholic. I would request the Government to try to appoint more Munsiffs from among the Syrian Catholics, and also to remove the inequality of representation in the Department in general.

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Mr. James Fletcher (*Kalkulam and Vilavankod* cum *Neyyattinkara*) : I oppose the Demand with a view to bring to the notice of the Government the following important points.

With regard to the recruitment of Magistrates firstly. It has been the practice to recruit them from among the clerical staff of the Secretariat and of the Account Office. There has been a slight change lately. Now, let me point out the disabilities of the clerks in efficently filling up the magistrates' posts. A young man who has passed the B. A., and the B. L., degree examinations works as a clerk for 10 or 15 years. His work does not give him any experience in judicial work ; he has no occasion even to hear a case being argued or a witness being examined. Such a young man, when he reaches a particular grade, is transplanted suddenly as a magistrate and is asked to do a work of which he has absolutely no idea or knowledge. If he is a young man, with difficulty, he may adapt himself to the change. If he is not young, he invariably finds it practically impossible to so adapt himself. In fact there are such elderly magistrates who do not know how to write judgments in accordance with the provisions of the Criminal Procedure Code, I can give specific instances of magistrates whose judgments are invariably set aside for the mere reason that they do not conform to the provisions of the Criminal Procedure Code. This has happened in many criminal appeal cases in which I have myself appeared as a vakil. The magistrate has not been able to state in his judgment the necessary points for determination in the judgment. I would therefore strongly condemn the policy of re-recruiting magistrates from the clerical staff. There may be a few clever men among the clerks. But they are only exceptions, and I have no objection in such exceptionally clever clerks being recruited as magistrates. In all other cases recruitment to the magistracy must be confined to the Bar. I congratulate the Government for having appointed lately a few lawyers as magistrates ; they are now doing excellent work.

Secondly I would also invite the attention of Government to the need for the separation of the judiciary from the executive. Of course, for the sake of economy, first class magisterial powers are given to certain Tahsildars. Often, the economy of the advantage in the financial position works against efficiency. The Tahsildar is not able to do his work satisfactorily. The parties in criminal cases come from various parts of the taluk and they wait at the office of the Tahsildar. As an executive officer the Tahsildar has to be on circuit and he comes late to the office. When he finds it difficult to dispose of the cases and therefore he adjourns the cases. This goes on throughout the year. He is more particular about the question of collecting the revenues rather

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[Mr. James Fletcher.]

than of disposing justice. Therefore I would request the Government as far as possible to separate the judiciary from the executive. With these words I oppose the grant.

Mr. K. M. Korah : Sir, I oppose the demand with a view to bring to the kind attention of the Government a few points concerning the conciliation boards. It is admitted that the agriculturists deserve the sympathy and consideration of Government. Hence conciliation boards have been established. There are agriculturists throughout the whole State and all of them are not benefitted by these boards. So my first submission is that conciliation boards should be established throughout the whole State.

I hope all the honourable members of this House will join with me when I say that of all the agriculturists it is the Kuttanad agriculturists who are keenly affected by the present economic depression. Taking the Kuttanad agriculturists into consideration it is clear that the present conciliation boards are practically of no use to them. For example, in Ambalapuzha taluk where most of these large scale cultivators live and where the pecuniary jurisdiction of the conciliation officer comes to Rs. 5,000 where these large scale cultivators are involved in debts amounting to even more than 25 to 30 thousand rupees they are actually not benefitted in any way by the conciliation boards. My submission therefore is that a conciliation board with unlimitted pecuniary jurisdiction should be established somewhere in Kuttanad.

With these words, I oppose the grant.

Mr. M. K. Ananthasiva Aiyar : Sir, I also oppose the motion. That people in and outside the state have reposed much reliance on the credit of the Travancore State is unquestionable as may be seen from the fact that the 3½ per cent. loan of 1956 was out in the market for subscription only for a few seconds and that the applicants for bonds got only bonds for 18 per cent. of the amounts applied for. But the condition of the people is just the opposite. They have not got the necessary credit. Whatever be the extent or the value of the properties they may own, they are not able to get loans of even very small amounts from either within or from without the State. This is due to the want of confidence that a lender ought to repose on the borrower. Wealth production is the product of capital. The agriculturist, the trader, the industrialist or anyone who has got to do anything with any business must have capital in his hands in order to succeed in his enterprise. Unusual delays in the administration of justice that is to say in the disposal of suits and in the disposal of execution applications by the civil courts of the land, due partly to the undue sympathy towards the judgment debtors and the want of sympathy towards

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the decree holders and due partly to the inefficiency of the officers or the disinclination to work on account of want of proper recognition of efficiency or merit, the passing of the Agriculturists' Relief Regulation with some special suggestions for conciliation which could not be found anywhere else and the establishment of conciliation boards without at the same time a proper agency to pay off the conciliated debts are some of the reasons for the fall in the credit of the people. The most important thing that is now required in the country for the uplift of the people and for the starting of industries, is capital. It is an essential thing and unless these defects pointed out are removed from the country no capital may be forth coming and there will be no salvation for the people.

Mr. M. S. Anirudhan: Sir, I also oppose the motion The grounds for my opposing the motion is, as in the case of every other department, in this department also that the principles of communal representation must be accepted. Sir, going through a caste-war statement of the judicial department, a man belonging to the unrepresented communities may be astounded. The representation is so very low. It is now more than 25 years I think since the Judicial Department has been thrown open to our community and in these twenty five years I may say that there is only one Munsiff who is in service belonging to our community. If any other section is taken into consideration you will see the glaring inequality to which the unrepresented communities have been put. I concede that in judicial service efficiency may be given preference. But my point is that among the efficient people the claims of unrepresented communities may be given preference. You may fix any minimum qualification and among the people who hold that minimum qualification the under-represented communities may be given preference.

While speaking on this matter, I have to refer to the recent G. O. regarding recruitment to the Judicial service. There also I am very sorry to see that nothing is said about the adjustments of communal claims. In the previous G. O. it has been said that the claims of communal adjustments also may be considered. But I am very sorry that in the present G. O. there is no reference to it. Therefore I bring to the kind notice of this House that this is a very glaring injustice done to those communities who are under-represented in this department and I would request the Government that when applicants from under-represented community satisfy the minimum qualification communal considerations may be given preference.

Mr. Kochikal P. Balakrishnan Tampi: Sir, I rise to support the Demand for this reason. The Government after all

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[Mr. Kochukal P. Balakrishnan Tampi].

came to a very wise decision regarding the recruitment to the judiciary. The G. O. saying that hereafter the Government and the High Court will be guided by efficiency in the matter of recruitment to the judiciary is very welcome indeed. Sir, in that matter the Government is only following the example set by all level headed men outside, in the sense that clients when they want legal advice transcend the barriers of caste and community and go to the people who are really competent to give them proper legal advice. Even the communities to which some of my friends belong, and who want communal representation in the services, even they when it comes to a matter of seeking the advice of a lawyer, they go to the lawyer who can best give the advice and they go to a lawyer who has character and ability without considering the community of the lawyer. In the same manner when the Government want to appoint a judge it is but right and proper that they appoint only those people who will satisfy them in regard to character and ability without reference to the community to which that lawyer might belong.

Mr. T. Mahomed Ismail: Is character and ability peculiar to any one particular community?

Mr. Kochikal P. Balakrishnan Tampi: Yes. By long heredity it has been found that a large percentage of the people in certain communities are men of character and ability than in certain other communities who made use of the educational facilities only during the last 10 or 15 years and who have been recently clamouring in season and out of season for representation in the public service.

Now, Sir, I am in complete agreement with my friends who represented that there should be greater recruitment from the Bar to the Judicial Department and to the Magistracy. At the same time it is right and proper that a small percentage of the appointments should be given to the men who are in clerical service so that it might act as an incentive to them to discharge their work faithfully and truly.

I am sorry I cannot agree with my honourable friend Mr. Ananthasiva Aiyar when he said that the law courts are particularly delaying matters. It is a matter of common experience that this land is inhabited by people who are very leisurely in their habits. Therefore, it is not unusual for one like me as a lawyer to apply for time for filing of written statements six or seven times. The clients go and request the vakil to put in an application for time; and it would not be proper to say that the judiciary are particularly anxious to protract matters. Also the charge was levelled against them that they are particularly siding with debtors. Mr. Ananthasiva Aiyar who has been favoured by fortune will certainly lay

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particular strees which I for one cannot. Sir, I have come across judges, themselves very fortunate men whose bank balance is by no means small whose outlook is not in sympathy with the debtor.

Sir, I forgot to mention one thing about the G. O. and that is with reference to the income tax. Of course income tax cannot be an unerring test. If it had been something like a blue litmus test of efficiency I would have understood it. If recruitment to the Judiciary will depend upon income tax I do not want to say anything disparaging to my colleagues of the legal profession; I do not say that they are going to cook up false accounts, I only say that they would exert not a very enjoyable or commenable pressure upon their clients. And especially when there is financial depression all round it is not right that the Government indirectly abet the gentlemen of the long robe to bring pressure upon the clients so that they may prove themselves from an objectionable point of view eligible for the judicial service.

Mr. N. Abdur Rahiman Sahib: Sir, in opposing the demand I would emphasise the necessity of appointing memebrs of backward communities at least in the ministerial establishment such as process servers, peons, amins and so forth. Even after the Public Service Recruitment Rules were put into operation I find only very few appointments were made from the backward communities. When temporary vacancies arise the courts fill them up by appointing fresh hands on the pretext that departmental heads are given powers to fill up vacancies up to one month. Sir, without rhyme or reason, without any principle whatsoever, appointments have been going on in the ministerial establishments in the judicial Department for the last so many years. It was reasonably expected that at least after the rules were laid down, some definite principle will be adhered to. But the results are disappointing. There are many E. S. L. C. holders and V. S. L. C. holders who have passed the minimum examinations prescribed for these appointments; yet they have not been appointed. It is high time to consider the claims of these backward communities and see that they get adequete representation. A resolution was passed at a former meeting of the Legislature to the effect that at least 50 per cent of the magistrates should be recruited from the bar. Though three appointments were made from the bar, I would emphasise the importance of considering that resolution in filling up vacancies of magistrates in future. That resolution must be accepted and acted upon. I would, in this connection, urge the necessity for enhancing the pay of clerks in these courts and thereby put an end to corruption. It is admitted

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[Mr. N. Abdur Rahiman Sahib.]

on all hands that they are over-worked people. While in other officers the clerks work till 5 o' clock only these poor clerks in the courts go to office at 8 in the morning and work till 8 in the night. It will go a great way in putting an end to corruption if the pay of these clerks is enhanced.

Sir, one word in regard to the conciliation boards. If Regulation III of 1112 is intended to ameliorate the condition of the agriculturists and if the benefits should accure to all agriculturists, I would urge that the jurisdiction of the conciliation officers may be extended as far as possible. For example in Trivandrum conciliation was started in four pakuthies. I understand that from the 1st Chingom 1113, the jurisdiction will be extended to the whole of the Trivandrum taluk. If the agriculturists of Chirayinkil and Nedumangad also require the benefits of conciliation, then the jurisdiction must be extended to those areas as well.

One word regarding the recent G. O. The rules laid down in the recent G. O. are not quite necessary considering the conditions prevailing in this country. A member of the bar who has an income which is assessable to income tax will not ordinarily care to enter office. So it is very difficult, if not impossible, to fulfil these conditions and it is not in my opinion, a workable proposition.

Mr. T. Mahomed Ismail: When I defined efficiency and character as crystalised hypocracy and favouritism I thought there will be an end of it. I am sorry to see that the subject has been brought up again. I understand from an honourable member that efficiency and character are acquired by tradition. I ask one question. We hear every day cries from honourable members accusing officials as corrupt. Sir, if all the officers of Travancore are to be accused as corrupt by the honourable members of this House, I ask whether it is the result of tradition of the last so many years. If our service should be purified, if we want efficient administration, then these traditional people must be stopped altogether. So let there be no question of this efficiency being brought forward in the mask of favouritsm as I said yesterday. Sir, if I am to dilate upon this point, I am very very sorry to see communalism, as I call it, on the part of the people who are styled as efficient. I do not know why these honourable members quarrel when we speak of our right, as if they are the custodians of this efficiency.

Mr. Kottur Kunjukrishna Pillai: May I know from the member why he fights shy of efficiency ?

Mr. T. Mahomed Ismail: I do not fight shy of efficiency. In this connection I must state one word. Sir, whenever I am asked a question I am prepared to answer it and I have answered it. I

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expect the same treatment from those honourable members especially from those who assume a defiant attitude and say 'I won't yield'. Let it be a lesson to the othe members also.

Due to the efficiency of these traditional people who have acquired talents of administration, the State has become corrupt to the core. It is again and again stated by the honourable members that we want to purify the administration. For the purification of the State let members of unrepresented communities be taken in and thus save the country from the traditionally qualified people.

Mr. M. Govindan: Sir, I am in favour of efficiency being the dominant consideration in the matter of recruitment to the Judicial service. Sir, I do not fight shy of efficiency. (*Hear, hear.*) What is efficiency is the question ? The trouble comes there. The most important thing is not the passing of the B. L. Degree Examination in the first class. Strength of character is the most important thing in the Judicial service. How are we going to test it ? The Judges who hear our arguments are the most competent to judge our character. Their recommendations will have to be accepted. (*Hear, hear.*) When we argue half a dozen cases, they can more or less make out what sort of fellows we are. If the Judges are trustworthy the Government can safely act on their advice.

Mr. G. Narayana Aiyar: Sir, is the word 'fellow' parliamentary ?

President : It is, unless it is specially used in an uncomplementary sense.

Mr. M. Govindan : It is for the Government to see if there is a community totally unrepresented as in the case of the Muslim community. In such cases a proper candidates may be selected if from among the members recommended by the judges as equally qualified.

In regard to incomes about which everybody has had his say, my own impression is that the amount of income and the extent of practice are not very safe tests. There are various ways of securing practice. The really good man can be known directly. That is what I have to say. All that I say is that income may also be taken into consideration. But above all character should weigh in recruitment so that the confidence of the public in the impartial administration of justice may not be shaken.

Mr. Kayalam Paramesvaran Pillai: Sir, I am very glad to rise up immediately after Mr. Govindan with much of whose speech I entirely agree. His speech was confined to the subject of recruitment to Judiciary, at any rate most of it was, and lends considerable support to the rules passed by Government recently regarding this recruitment. In fact, it sounds as an echo, as it were,

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[Mr. Kayalam Parameswaran Pillai.]

of the material portion of the G. O. which emphasises efficiency and character and the good opinion of the judges which Mr. Govindan rightly emphasised. That portion of the G. O. reads as follows:

> "Recruitment of District Munsiffs, Second Judges, District Judges and High Court Judges will in future be based primarily on efficiency and professional standing at the Bar. The selection will be determined not only by the opinion of the Judges before whom the applicants shall have practised but by their competence as proved by the actual incomes earned by them at the Bar."

Sir, the Government recently considered the whole question of recruitment very carefully and laid down these rules in unequivocal terms, and it is very gratifying that they have practically received the approval of Mr. Govindan who was himself a judge once. Mr. Govindan rightly emphasised efficiency as the dominent consideration. But how is the efficiency to be measured? The rules lay down the methods. But says that the extent of the practice at the bar should not be the main criterion. But surely there must be some tangible tests to measure the efficiency. What is the tangible test? One test is suggested to be the opinion of the Judge obviously the Judge before whom the candidate practised. Provision is made in the Rules for this test and I have already read that. But opinions *may* vary. A more unerring test though even this may possibly err, is the extent of the practice at the Bar. Therefore it seems to me that the tests as laid down in the G. O. namely, the income test *inter alia* must be deemed to be but a right test. Of course, there is provision in the rules for the opinion of the Judges being taken. In regard to communal representation I must say that in the matter of recruitment to the judiciary the main consideration should be ability and character. The main consideration should not be the candidate's community. I can agree that if it be possible to conceive of two candidates having exactly the same character and ability, and if in such a case one of them belongs to an unrepresented community that individual may be preferred. But apart from such merely possible cases, the main consideration should be character and efficiency, and I am glad to think that Mr. Govindan also agrees to it. And that is only right because these judges have to adjudicate disputes not only between members of the same community, but also between members of different communities. A case may go up before the judge as between a Nair and an Ezhava or a Nair and a Muslim or a Muslim and Christian. It is obvious therefore that the judge whoever he be should be a "Judgely" judge rather than a *Mahomedan* judge or an *Ezhava* judge or a *Christian* judge. It is thus obvious that the appointments to the judiciary should not be made on communal considerations but should be made in the larger interests of the country. Everybody may have to go to a court of law some day or other for the adjudication of some disputes or other. He must be assured of impartial adjudication and

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what is more important, we must create in him a feeling of confidence in the impartiality of the judge even granting that the judge may perhaps err. This is much more important in the interests of the State and the public in general who are of different communities and is undoubtedly more important than putting a few rupees and chuckrams in the pockets of this community or that community. Let us therefore put aside these communal claims in this one department, which has but 60 or 63 officers.

By saying this I do not suggest that the judiciary should be made a close preserve of any community or communities or that any person should be excluded because of his community, nor do I suggest that efficiency and charactor are the monopoly of any one particular community. If it is permissable for me to make a personal reference I would in this connection refer to our colleague Mr. Govindan. He was the first Ezhava to be appointed as a member of the judiciary, he was first appointed a Munsiff. It was about 30 years ago. There was no rule of communal rotation then and I venture to say that the fact that he was an Ezhava did not weigh with the authorities in appointing him. He was appointted undoubtedly, because of his ability, character, and competency and I may add that if the recent G. O. were then in existance, he would have quite satisfied the tests laid down and what was the result. He turned out to be one of the most impartial and honoured judges, and he rose by sheer ability. What he proved to be may be proved by any person whether an Ezhava or a Nair or a Mahomedan or a Latin Catholic. Only he should be appointed for reasons of efficiency and character and not for the reason of his community. As the judge should necessarily create confidence in the litigant public, it is undesirable to lay down a set rule that a person should be appointed as a Munsiff or a Judge because, he belongs to a particular community. It would be even mere undesirable to lay down a rule, a mathematical rule, of communal rotation for appointments to the judiciary.

In saying this I do not suggest that any person should be excluded from the judiciary because of his community and too the actual position today does not show that any person is excluded, because of his community and we have today Ezhava Judges and Christian Judges and munisiffs.

One honourable member deplored that there is only one Ezhava Munsiff today. He might have perhaps added that yesterday there were two. Sir, this kind of argument sounds quite unreal. It looks like saying that

Mr. M. S. Anirudhan: May I ask whether one Munsiff was not appointed as Concillation Officer ?

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Mr. Kayalam Paramesvaran Pillai: Yes. That is why I said that he might have added at least that *yesterday* there were two Ezhava Munsiffs, though one having been promoted there is only one Ezhava Munsiff today. Sir, I was saying that this kind of argument looks very unreal. It is just like a man having one hundred-rupee note alone but no small change in his pocket saying that he has not a single pie in his pocket. Though not a Munsiff an Ezhava may be a judge, and as a matter of fact there are Ezhava Judges. That fact does not apparently count with my honourable friend when he bemoaned that there is only one Munsiff from his community today.

Mr. M. S. Anirudhan: May I know whether it is not a fact?

Mr. Kayalam Paramesvaran Pillai: Yes, it is a fact and what I said is also a fact. Are these not Ezhava Judges today and is there not an Ezhava Conciliation Officer today? Why does not my friend recognise that? That is why I likened that argument to a man's saying that he has not a single pie in his pocket though he has therein a hundred-rupee note. I have no doubt that the House will appreciate such bemoanings for what they are worth.

President: The honourable member will please go on.

Mr. Kayalam Paramesvaran Pillai: Sir, that is all about the arguments of communal representation.

It was said by Mr. Abdur Rahiman Sahib that recruitment of Magistrates should be made mainly, if not entirely, from the Bar and he deplored that clerks are made Magistrates. It is no doubt true that clerks are recruited as Magistrates. Evidently Mr. Abdur Rahiman wants them to be excluded.

Mr. Abdur Rahiman Sahib: A word of personal explanation, Sir. I only said that 50 per cent from the Bar should be recruited as Magistrates in pursuance of the resolution passed already on the subject.

Mr. Kayalam Paramesvaran Pillai: So then I take it that it is granted that clerks also are fit to be appointed as Magistrates, because, the balance 50 per cent according to the Member may obviously be appointed from among the clerical staff. That being so, I need only say that no definite rule can be laid down, to say that 50 per cent of the Magistrates should be recruited from the Bar and 50 per cent from the cadre of clerks. Every applicant for the place will be considered on the merits and the best man selected for the appointment. What I think would be the best rule to adopt. On this point, the House must also realise one fact. The Magistracy forms part of the Revenue Department as their ordinary

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promotion is in the Revenue line. If 50 per cent of the Magistrates are to be reserved for the bar, it would in effect mean or lead to the result that 50 per cent of the revenue appointments of Tahsildars, Assistant Peishkars and Division Peishkars should be reserved for the Bar. This also has to be kept in mind by honourable members when they advocate for a definite rule as suggested.

In regard to Conciliation Boards, Mr. Thuppan Nambootiri pointed out that certain Jenmikaram cases were brought up for conciliation. It was stated that the Officers themselves found that it was wrong and eventually rejected the applications. When few morey applications are rejected, people will realise therules and there will be no reason for complaint.

Mr. C. N. Thuppan Namboodiripad : ജന്മിക്കരത്തിനു നിശ്ചയിച്ചിട്ടുള്ള വിലയാണോ കുടിശ്ശികയുള്ള നെല്ലിനും നിർണ്ണയിച്ച വിധി കൊടുക്കേണ്ടതു്; അതോ കുടിശ്ശികയുടെ വില അന്യായത്തീയതിയിലുള്ള റേറ്റനുസരിച്ചാണോ കൊടുക്കേണ്ടതു്?

Mr. Kayalam Paramesvaran Pillai: That is a matter for legal opinion which I cannot give now to Mr. Namboodiripad. Anyhow the matter was decided by the Judges in the course of their judicial work and Government cannot intervene. If any party is aggrieved, he should prefer an appeal and get a final ruling. That ruling will no doubt be followed by all the subordinate courts. Whatever opinion I can now give can only be given on behalf of Government and Government cannot intervene in such matters.

Mr. G. Narayana Aiyar, suggested that the claims of members of mofussil Bar should be taken into consideration in connection with the recruitment of Munsiffs. I have already read o the House the main considerations on which Munsiffs and Judges will be recruited. It will be seen that the mofussil Bar is not excluded from the field of choice.

Mr. G. Narayana Aiyar : Has anybody been recruited from the mofussil Bar ?

Mr. Kayalam Paramesvaran Pillai : Though perhaps such recruitments may be few, still there have been such recruitments. However, the present rules do not include the mofussil Bar and I trust that the claims of the members from the mofussil Bar too will receive consideration. Sir, I think I have covered all points.

The question that a sum of Rs. 10,94,152 under Demand VI—Administration of Justice be granted was put to vote and carried.

The grant was made.

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